IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Bail Appl..No. 4241 of 2007()

CRIME NO.175 OF 2007 OF PUDUKKAD POLICE STATION

: PETITIONER/ACCUSED

GINESH.S/O.CHANDRAN,
PANIKKATTIL HOUSE,PALAKKAPARAMBU,
KALLOOR, THRISSUR DISTRICT.

BY ADV. SRI.A.C.DEVY

RESPONDENTS:

THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4241 of 2007

Dated this the 20th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the 4th accused. Altogether there are 6 accused persons. They face allegations under Section 399 I.P.C and Section 25 of the Arms Act. The crux of the allegations is that the accused persons, who have criminal antecedents, had assembled together and were conspiring to commit offences. When the police party, on receipt of information, tried to intercept them, all others except Accused Nos.2 and 6 took to their heels. Chilly powder was allegedly thrown at the police. Accused 2 and 6 were arrested on the spot. Their interrogation revealed to the police the identity of the other miscreants. All the accused are named in the F.I.R. Accused No.5 had subsequently been arrested. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner along with the others was only celebrating Vishu at 4.30 p.m. False allegations are being raised against them only because some of them have criminal antecedents. It is, in these circumstances, prayed that directions under Section 438 Cr.P.C may be issued in favour of the petitioner.

3. The application is vehemently opposed by the learned Public Prosecutor. The materials presently available convincingly

point to the complicity of the petitioner. The petitioner has questionable criminal antecedents also. In these circumstances, there is absolutely no merit in the prayer to arm the petitioner with an order of anticipatory bail at this stage. Custodial interrogation of the petitioner is essential for a proper investigation into the crime. The petitioner may not be granted anticipatory bail, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. Absolutely no such circumstance is shown to exist, which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

5. This, I am satisfied, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek regular bail in the normal and ordinary course.

6. This application for anticipatory bail is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-